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4 Attorney for Miguel Mendiola Martinez

5  
6 UNITED STATES DISTRICT COURT

7 SOUTHERN DISTRICT OF CALIFORNIA

8 UNITED STATES OF AMERICA	)	Criminal Case No. 08-CR-1169-WQH
	)	
9 Plaintiff,	)	DEFENDANT'S PROPOSED JURY
	)	INSTRUCTIONS
10 VS.	)	
	)	Date: September 16, 2008
11 MIGUEL MENDIOLA-MARTINEZ,	)	Time: 9:00
	)	Courtroom 4
12 Defendant,	)	
	)	

13 Defendant, by and through his retained counsel, Genaro Lara, respectfully submits the following  
14 Proposed Jury Instruction:  
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COURT'S INSTRUCTION NO. \_\_\_\_\_

DEFENDANT'S PROPOSED INSTRUCTION NO. \_\_\_\_\_

A defendant who acts in reliance on public authority does not act knowingly and should be found not guilty.

A defendant acts under public authority if:

- (1) that defendant is affirmatively told that his conduct would be lawful;
- (2) that defendant is told this by an official of the United States government; and
- (3) that defendant actually relies on what the official tells him in taking the action; and
- (4) the defendant's reliance on what he was told by the official is reasonable in light of the circumstances.

In considering whether a defendant actually relied on representations by an official that his conduct would be lawful, you should consider all of the circumstances of their discussion, including the identify of the official, the point of law discussed, the nature of what the defendant told, and was told by, the official, and whether that reliance was reasonable.

1 COURT'S INSTRUCTION NO.\_\_\_\_

2 DEFENDANT'S PROPOSED INSTRUCTION NO.\_\_\_\_

3 One of the issues in this case is whether the defendant acted in good faith. Good  
4 faith is a complete defense to the charge of 18 U.S.C. 922(g)(5), an illegal alien in possession of  
5 a firearm, if it is inconsistent with knowledge that he is an illegal alien, which is an element  
6 of the charges.

7 If you believe that defendant relied in upon Employment Authorization Card,  
8 the issuance of a valid Social Security Card to his name, valid California Driver's License, in his  
9 application for adjustment of status through his attorney Kevin Bove, to believe that he had the  
10 right to reside in the United States pending the adjudication of his immigration status, then you  
11 must conclude that he acted in good faith.

12 Evidence that defendant acted in good faith may be considered by you, together  
13 with all the other evidence, in determining whether or not he acted with knowledge that  
14 he was an illegal alien.  
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CERTIFICATE OF SERVICE

I, Genaro Lara, declare I am over 18years of age, a citizen of the United States, and not a party to this action. My business address is 121 Broadway, Suite 365, San Diego, CA 92101

On September 2, 2008, I filed electronically with the Clerk of the United States District Court for the Southern District of California, the above document., upon Christina McCall, Assistant U.S. District Attorney.

/s/ \_\_\_\_\_ Genaro Lara  
\_\_\_\_\_  
Attorney for the defendant

Dated: September 2, 2008